



# California

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### AB-2488 Alcoholic beverages: certified farmers' market sales permit. (2013-2014)

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## Assembly Bill No. 2488

### CHAPTER 98

An act to amend Section 23399.4 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor July 08, 2014. Filed with Secretary of State July 08, 2014. ]

### LEGISLATIVE COUNSEL'S DIGEST

AB 2488, Levine. Alcoholic beverages: certified farmers' market sales permit.

The Alcoholic Beverage Control Act permits the Department of Alcoholic Beverage Control to issue special temporary licenses and permits to various entities for limited purposes. The act permits the department to issue a certified farmers' market sales permit that authorizes a licensee under a winegrower's license, a member of the licensee's family, or an employee of the licensee to sell wine produced and bottled by the winegrower at certified farmers' market locations, under specified conditions. The act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill would specify that, pursuant to the certified farmers' market sales permit, the licensee may only sell wine that is produced entirely from grapes or other agricultural products grown by the winegrower and that is bottled by the winegrower. This bill would require the certified farmers' market sales permit to authorize the licensee, a member of the licensee's family, or an employee of the licensee to conduct an instructional tasting event on the subject of wine at a certified farmers' market, subject to certain conditions.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 23399.4 of the Business and Professions Code is amended to read:

**23399.4.** (a) A licensed winegrower may apply to the department for a certified farmers' market sales permit. A certified farmers' market sales permit shall authorize the licensee, a member of the licensee's family, or an employee of the licensee to sell wine at a certified farmers' market at any place in the state approved by the

department. The licensee may only sell wine that is produced entirely from grapes or other agricultural products grown by the winegrower and that is bottled by the winegrower. In addition, the permit will allow an instructional tasting event by the licensee on the subject of wine at a certified farmers' market. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market location. A winegrower may hold more than one certified farmers' market sales permit. The department shall notify the city, county, or city and county and applicable law enforcement agency where the certified farmers' market is to be held of the issuance of the permit. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

(b) (1) An instructional tasting event is subject to the authorization and managerial control of the operator of the certified farmers' market. The licensee, a member of the licensee's family, or an employee of the licensee may conduct an instructional tasting event for consumers on the subject of wine at a certified farmers' market.

(2) (A) At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the market by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier. Only one licensee may conduct an instructional tasting event during the operational hours of any one certified farmers' market.

(B) The licensee shall not permit any consumer to leave the instructional tasting area with an open container of wine.

(c) The licensee shall not pour more than three ounces of wine per person per day.

(d) The licensed winegrower eligible for the certified farmers' market sales permit shall not sell more than 5,000 gallons of wine annually pursuant to all certified farmers' market sales permits held by any single winegrower. The licensed winegrower shall report total certified farmers' market wine sales to the department on an annual basis. The report may be included within the annual report of production submitted to the department, or pursuant to any regulation as may be prescribed by the department.

(e) Except as otherwise provided in this division or by the rules of the department, no premium, gift, free goods, or other thing of value shall be given away by the licensee, a member of the licensee's family, or an employee of the licensee in connection with an instructional tasting event conducted pursuant to this section that includes tastings of wine.

(f) The fee for any permit issued pursuant to this section shall be fifty dollars (\$50), subject to adjustment pursuant to subdivisions (b) and (c) of Section 23320.

(g) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 3.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to help certified farmers' market sales during the current season, it is necessary that this act take effect immediately.

# New California Law Allows Wine Tastings at Farmers' Markets

07/09/14

On July 8, 2014, Governor Jerry Brown signed a bill allowing state licensed winegrowers (Type 02 license holders) to host "instructional tasting events" at certified state farmers' markets. The bill (AB 2488) passed the Senate last month and had the support of the Wine Institute and Family Winemakers of California.

Prior to the law's passage, a Type 02 licensed winegrower could apply for a "Certified Farmers' Market Sales Permit" (Type 79) which would allow the winegrower to sell wine at farmers' markets, so long as the wine was (a) produced entirely from grapes grown by the licensee and (b) bottled by the licensee.

Under the new law, Certified Farmers' Market Sales Permit holders may host an "instructional tasting event" under certain circumstances.

- The operator of the certified farmers' market must approve the event;
- The event must be conducted by either the licensee, a member of licensee's family, or an employee of licensee;
- The area for the event must be separated from the remainder of the market by some permanent or temporary barrier (wall, rope, cable, etc.);
- Tasting is limited to three ounces of wine per person per day; and
- No open container of wine may leave the instructional tasting area.

*For more information on California state alcohol beverage privileges, please contact John Trinidad([jtrinidad@dpf-law.com](mailto:jtrinidad@dpf-law.com)).*